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Attorneys for Plaintiff Anthony Russo

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

ANTHONY RUSSO, an individual;
Plaintiff,

Case No.: 2:17-cv-00805-GMN-VCF

v.

CLARK COUNTY SCHOOL DISTRICT,
a political subdivision; EDWARD GOLDMAN,
an individual; JAMES KETSAA, an individual.

Defendants.

IT IS HEREBY STIPULATED AND AGREED between the parties, by and through their undersigned counsel, that Plaintiff Anthony Russo shall amend his Complaint [Doc. 1] filed on March 17, 2017 with the proposed Amended Complaint attached hereto as Exhibit "1".

The deadline under the current scheduling order for amending the pleadings was actually August 24, 2017. However, there was good cause/excusable neglect on the part of Plaintiff's counsel for the failure to seek leave by this date. The parties, including recently dismissed Plaintiff Daniel Burgess, attended an early Neutral Evaluation on July 25, 2017. While Plaintiff Russo was excused, Burgess and the Defendants came very close to reaching a settlement such that the parties were to report back to the Magistrate Judge conducting the ENE regarding further settlement discussions.

1 Plaintiff Russo's counsel was thereafter informed that the matter was going to settle and was awaiting
2 such settlement in the dismissal of Burgess because the original Complaint was a joint complaint.
3 While a stipulation was entered between Defendants and Burgess to extend deadlines, Russo's counsel
4 did not realize at the time of that stipulation that Russo had been excluded from the extension.

5 Additionally, Plaintiff Russo is a member of the United States Department of Health and
6 Human Services National Disaster Medical System. Prior to the deadline to amend under current
7 scheduling order Russo received deployment orders in connection with the impending arrival of
8 Hurricane Harvey in Texas. Plaintiff Russo has not yet returned to Las Vegas as he was deployed from
9 Hurricane Harvey relief to Florida following Hurricane Irma. Accordingly, Plaintiff's counsel has had
10 limited contact with Russo, and will not have such contact until Russo returns in October from Federal
11 deployment.

12 DATED this 27th day of September, 2017.

DATED this 27th day of September, 2017.

13 LAW OFFICE OF DANIEL MARKS

GREENBERG TRAURIG, LLP

14 /s/ Daniel Marks, Esq.

/s/ Kara B. Hendricks, Esq.

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19 IT IS HEREBY ORDERED that the Amended Complaint
20 must be filed on or before October 6, 2017.

21 **IT IS SO ORDERED.**

22 

UNITED STATES MAGISTRATE JUDGE

23 DATED this 28th day of September, 2017.

EXHIBIT “1”

Amended Complaint

EXHIBIT “1”

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CLARK COUNTY SCHOOL DISTRICT,
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an individual; JAMES KETSAA, an individual;
Defendants.

AMENDED COMPLAINT

JURY TRIAL DEMANDED

Plaintiff ANTHONY RUSSO, by and through undersigned counsel, Daniel Marks, Esq. and Adam Levine, Esq. of the Law Office of Daniel Marks, hereby demand a trial by jury and complain and allege against the above-named Defendants as follows:

1. At all times material hereto Plaintiff Anthony Russo was a resident of Clark County, Nevada and was employed as a post-probationary police Sergeant with the Clark County School District ("CCSD") Police Department.

2. At all times material hereto Defendant Clark County School District was a political subdivision of the State of Nevada.

1 3. At all times material hereto Defendant James Ketsaa was a resident of the State of
2 Nevada and employed as the Chief of Police of the CCSD Police Department.

3 4. At all times material hereto Defendant Edward Goldman was a resident of the State of
4 Nevada employed as the Associate Superintendent over Employee Management Relations for CCSD.
5 As the Associate Superintendent over Employee Management Relations (“EMR”) Defendant Goldman
6 acts as the Superintendent’s Designee and was the final decision maker with regard to all issues relating
7 to employee discipline.

8 5. The United States District Court has jurisdiction pursuant to 28 U.S.C. §§1331,
9 1343(a)(4) and §2201 as the Plaintiff seeks damages and declaratory and/or injunctive relief arising out
10 of the violation of his federal constitutional rights pursuant to 42 U.S.C. §1983 and *Monell v. New York*
11 *City Dept. of Social Servs.*, 436 U.S. 658 (1978).

12 6. At all times material hereto Defendants Ketsaa and Goldman were acting under color of
13 state law.

14 7. On September 9, 2015 Defendant Ketsaa suspended Sergeant Anthony Russo
15 indefinitely without pay pending investigation.

16 8. Russo was not provided with any type of pre-deprivation hearing prior to having his pay
17 cut off on September 9, 2015.

18 9. On November 17, 2015 Russo received a “Notice of Disciplinary Action-
19 Recommendation for Dismissal and Immediate Suspension without Pay Pending Recommendation for
20 Dismissal”. The Notice to Russo informed him that he would have a post-deprivation “evidentiary
21 hearing” before Goldman, or Goldman’s designee, at a later date.

22 10. Russo was not provided with any pre-deprivation hearing prior to having his pay cut off
23 on either September 9, 2015 or November 17, 2015.

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1 11. Russo did not receive his post-deprivation “evidentiary hearing” before Goldman until
2 January 7, 2016. As was the case with prior officers, including but not limited to Lieutenant Daniel
3 Burgess, the hearing he received was not an “evidentiary hearing” insofar as the district presented no
4 testimony or documentary evidence. Rather, CCSD’s presentation consisted exclusively of arguments
5 of CCSD legal counsel.

6 12. On January 8, 2016, Goldman upheld the termination and made it retroactive so as to be
7 “effective November 17, 2015.”

8 13. Russo was a post-probationary employees who could only be terminated for “just
9 cause”, and therefore had a property interest in his employment within the meaning of the Due Process
10 Clause of the Fourteenth Amendment.

11 14. Due process required that Russo receive a pre-deprivation hearing whereby he was
12 provided notice of the charges, an explanation of the evidence upon which it was based, and a
13 meaningful opportunity to invoke the discretion of the decision maker prior to being deprived of his
14 pay and employment.

15 15. The actions of Ketsaa in depriving Russo of his pay and employment without any pre-
16 deprivation hearing violated Russo’s rights under the Due Process Clause of the Fourteenth
17 Amendment.

18 16. Defendant Goldman ratified the actions of Ketsaa in depriving Russo of his due process
19 rights, and is therefore liable for the deprivations.

20 17. Defendants Ketsaa and Goldman possessed the final authority to establish policy with
21 respect to the termination of police officers so as to warrant the imposition of liability upon CCSD
22 under 42 U.S.C. §1983.

23 18. CCSD had an unconstitutional custom, practice, and/or policy of terminating post-
24 probationary employees with a property interest in their employment without any type of pre-

1 deprivation hearing so as to warrant the imposition of liability on CCSD under 42 U.S.C. §1983. Prior
2 instances of this unconstitutional custom, practice and/or policy include, but are not limited to the
3 following:

4 a. In or about August of 2014 CCSD indefinitely suspended police officers Steven
5 McNeill and James Kettner without pay pending investigation without any prior
6 deprivation hearing. By October of 2014 CCSD had determined that McNeill was not to
7 be terminated and was only to receive a ten-day suspension. However CCSD refused to
8 reimburse McNeill for the time he was suspended without pay in August of 2014 until
9 his reinstatement in October.

10 b. On March 27, 2015 CCSD served Lieutenant Daniel Burgess with a Notice of
11 Disciplinary Action. While the document purported to be a “recommendation” for
12 discipline, Burgess’ pay was ended effective that day without any prior hearing.
13 Defendant Ketsaa informed Burgess when handing him the Notice that he was in fact
14 terminated effective that day despite not having a pre-termination hearing.

15 c. On May 6, 2015 CCSD indefinitely suspended without pay Officer Michael
16 Thomas without any prior hearing. On December 3, 2015 Defendant Ketsaa terminated
17 Officer Thomas’ employment utilizing the same type of Notice utilized for Lieutenant
18 Burgess and was likewise not given a pre-termination hearing.

19 d. As was the case with Russo, both Burgess and Thomas received post-termination
20 hearings which were not evidentiary hearings wherein the district presented any
21 evidence. As was the case with Russo, the post-termination hearing officer made
22 determinations of both Burgess and Thomas “retroactive” to the dates that they received
23 their Notice of Disciplinary Action from Defendant Ketsaa.

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1 19. As a direct and proximate result of the deprivation of his federal constitutional rights as
2 set forth above Plaintiff Anthony Russo has suffered and/or incurred general damages including, but
3 not necessarily limited to, lost wages, earnings, benefits and/or emoluments, and emotional distress.

4 20. As a direct and proximate result of the deprivation of his federal constitutional rights as
5 set forth above, Plaintiff Anthony Russo has further suffered special damages in the form of attorney's
6 fees and costs, witness fees, expert witness fees, and/or arbitrators' fees and expenses in connection
7 with the post-termination hearing which resulted in his termination being overturned.

8 21. Defendants Ketsaa and Goldman's deprivation of Russo's federally protected rights was
9 malicious and/or undertaken in callous disregard for Russo's rights so as to warrant the imposition of
10 punitive damages.

11 WHEREFORE, Russo prays for judgment against Defendants, and each of them, as follows:

12 1. For an entry of judgment in favor of Plaintiff and against Defendants, and each of them,
13 on the complaint and all claims for relief asserted therein;

14 2. For an award of general damages in an amount to be proven at trial;

15 3. For an award of special damages for attorney's fees, witness fees, expert witness fees
16 and/or arbitrators' fees and costs in an amount to be proven at trial;

17 4. For an award of punitive damages in an amount to be proven at trial;

18 5. For pre-judgment and post-judgment interest, as allowed by law;

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6. For an award of reasonable attorneys' fees and costs incurred herein, as allowed by law, in an amount to be determined; and

7. For such other and further relief as the district court may deem just and proper.

DATED this _____ day of September, 2017.

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